

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

In the matter of
Glenoaks Station Post Office
Burbank, California 91504

Docket No. A2013-5

MOTION FOR RECONSIDERATION OF
ORDER AFFIRMING FINAL DETERMINATION
(October 31, 2013)

On October 31, 2013, the Postal Regulatory Commission issued Order No. 1866, affirming the Postal Service's Final Determination to close the Glenoaks station post office.¹ The petitioner respectfully requests that the Commission reconsider this order in view of the following.

On July 15, 2013, the Postal Service filed a Motion to Dismiss the proceedings.² The petitioner duly filed an answer to that Motion, and the Postal Service filed a Surreply.³ The Public Representative also filed comments on the Motion to Dismiss.⁴ The issues raised in the motion and the comments were of considerable significance — the relevance of the proximity to another post office, the claim that customers would continue to have access to postal services elsewhere, the notion that the post office was simply being relocated or realigned,

¹ Order Affirming Determination, Postal Regulatory Commission, October 31, 2013 (Order).

² Motion of the United States Postal Service to Dismiss Proceedings, July 15, 2013 (Motion to Dismiss).

³ Reply to the United States Postal Service Motion to Dismiss, July 29, 2013; Surreply of the United States Postal Service to Dr. Hutkins' Reply, August 5, 2013.

⁴ Public Representative Response to United States Postal Service Motion to Dismiss Proceedings, July 23, 2013.

and so on. The Commission never issued an order responding to the Motion to Dismiss. Instead, it proceeded, some three and a half months later, to issue an order affirming the Final Determination.

Some of the subjects addressed by the parties about whether or not the appeal should be dismissed are briefly discussed in the Order, but the Commission has dodged making a ruling on the Motion itself. One might assume that in issuing an order affirming the Final Determination that the Commission has tacitly rejected the Motion to Dismiss, but this may be assuming too much. If the Commission has in fact rejected the Motion to Dismiss, one would expect a ruling explaining why. It would seem incumbent upon the Commission to respond directly to the Postal Service's Motion to Dismiss the Glenoaks appeal. A review of the Commission's library fails to produce another case where a Motion to Dismiss an appeal went unanswered by the Commission.

Because the Commission never issued an order responding to the Motion to Dismiss, it appears that the Postal Service did not find it appropriate or necessary to submit a Responsive Pleading explaining how it had complied with the statutes governing post office closures, as it always does when the Commission hears an appeal. The substance of the appeal was addressed by the Public Representative in comments separate from those involving the Motion to Dismiss, and the petitioner addressed the Public Representative's comments in a detailed response. The Commission thus had an opportunity to hear about the main issues in the appeal from both the Public Representative and the petitioner, but not from the Postal Service. Plus, because the Postal Service did not submit

any Responsive Pleading, there was no opportunity for the petitioner to respond to the Postal Service's case.

The Commission has thus issued an order affirming the Final Determination in the absence of any comments from the Postal Service about the substance of the appeal. One wonders how the Commission was able to determine that the Postal Service had complied with statutory requirements without ever hearing from the Postal Service. It is doubtful that there is any precedent for such a case. The Postal Service *always* defends its decision to close a post office.

The Postal Service's only contribution to the docket concerning the substance of the case is the Administrative Record. The Postal Service and the Commission may believe that the record speaks for itself, but it has numerous problems. As Chairman Goldway writes in her Dissenting Opinion, "The Administrative Record presented to us by the Postal Service is woefully incomplete."⁵

Unfortunately, because it chose not to submit any comments, the Postal Service never addressed the many problems with the Record, and the Commission glosses over them in its ruling. The order summarizes the petitioner's points about the Record but proceeds to ignore them in its analysis.

There is no discussion, for example, of the fact that the Administrative Record says there were 132 customer surveys but provided copies of only 62 of them. It was impossible to determine whether or not the summary of the surveys

⁵ Dissenting Opinion of Chairman Goldway, October 31, 2013.

was accurate, and there was good indication it was not. The Commission's analysis simply states, "A total of 132 questionnaires were returned." (Order at 7)

As for the fact that the Postal Service held the required community meeting on a Memorial Day and only two people attended, the Commission states, "Although the Postal Service did follow its procedures and conducted a community meeting, the Postal Service should hold community meetings at dates and times more conducive to generating representative community input." (Order at 7) The Commission says nothing about the fact that postal regulations advise postal officials: "Be sure to schedule the meeting at a time that encourages customer participation, such as during an evening or weekend."⁶ There is no explanation about how scheduling a meeting on a federal holiday complies with postal regulations.

The Record indicates that the Glenoaks post office is very profitable, but the Commission's analysis has nothing to say about how the Postal Service can be said to have fulfilled its obligation to consider economic savings by closing a profitable operation.

Most of the other substantive issues raised by the petitioner in the response to the Public Representative's comments have also gone unaddressed by the Commission. The Order provides an entirely unsatisfactory response to the case for remanding the Final Determination. The Commission has failed to respond to the Postal Service's Motion to Dismiss and the important issues it raises, the Commission has made a judgment about the legitimacy of the Postal

⁶ Postal Service-Operated Retail Facilities Discontinuance Guide (USPS Handbook PO-101), p. 15.

Service's Final Determination without even hearing what the Postal Service had to say about the case, and the Commission has affirmed the Final Determination without addressing most of the key arguments in the appeal.

The petitioner therefore respectfully requests that the Commission reconsider its order on the Glenoaks appeal. Should the Commission choose not to reconsider the order, the petitioner asks that these comments be accepted into the record.

Respectfully submitted on behalf of
Petitioner Marlene Keables Benda

s/ Steve Hutkins

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